

getting it purchased

The quarterly newsletter of the Procurement and Printing Division

Fall 2001

Montana Department of Administration • Website address: www.discoveringmontana.com/doa/ppd

NEWS AND NOTES

Total Contract Value. Several agencies, we've discovered, have a differing view of which solicitation method to use when determining whether a needed supply or service should be considered within the range of a "small purchase," "limited solicitation" or formal solicitation method, and whether a potential contract will exceed the agency's delegation amount. To finally end any confusion on the subject, the concept of "total contract value" is now defined in administrative rule. It is defined as "the initial contract period and any options to renew." For instance, if a janitorial contract is issued for \$5,000 per year for an initial contract period of three years, with options to renew for three more one-year periods, the "total contract value" is \$30,000. In this case, because the "total contract value" exceeds the limits for a small purchase or a limited solicitation, this service must be secured through a formal Invitation for Bid or Request for Proposal. If the agency has Level One Delegation authority (delegation up to \$25,000), the project must be sent to the State Procurement Bureau.

Limited Solicitation Level Raised. Beginning October 1, 2001, the "limited solicitation" method of procurement may be used for the procurement of supplies or services up to \$25,000. This method requires the purchasing agency to obtain three viable quotes and document the solicitation and award process. For complete information on this solicitation method and to locate the forms utilized to document a limited solicitation, go to our website (noted above) and check under "Procurement Questions and Answers" and "Standard Contract Language and Forms." For additional information, please call us at 444-2575.

Resident and Montana-made Preferences Eliminated. Effective October 1, 2001, the law

requiring a 3-8% preference for Montana residents and Montana-made products has been eliminated. This preference, while attractive on the surface to Montana businesses, was actually harming them when they tried to do business with 34 other state governments. In those states, our 3-8% preferences were being held against the Montana company in a bidding situation—often without the business even being aware of it. Montana now joins the ranks of the 34 states that apply a "reciprocal" preference against businesses coming from one of the seven remaining states which still give a residency preference to their own businesses (WY, WV, NM, LA, AK, HA, and SC).

The new "reciprocal" preference will only apply to an Invitation for Bid for supplies and then only in the event that the application of a preference would benefit a Montana resident business and no federal funds are involved. The State Procurement Bureau will still track the residency status of the Montana businesses and will continue to post that information on the PeopleSoft vendors list. (If you need assistance in locating that information on PeopleSoft, please call Bonny Belling at 444-3322.)

The State Procurement Bureau will also post a list of states with residency preferences on our website. For assistance in applying reciprocal preferences, please call Sheryl Olson at the State Procurement Bureau at 444-2575.

Legislative Changes. The Montana Information Technology Act (SB131), effective July 1, 2001, made substantial revisions to the Department of Administration's responsibilities with regard to computing and telecommunications. One key change to statute is an expanded approval requirement for the acquisition of information technology (IT) resources. Information technology is defined as "hardware, software, and associated services and infrastructure used to store or transmit information in

any form, including voice, video, and electronic data." The Department of Administration "shall review, approve, and sign all state agency contracts and shall review and approve other formal agreements for information technology resources provided by the private sector and other government entities."

Effective immediately, the review and approval of agency acquisition of IT resources will be required. Please plan accordingly when pursuing your IT procurements. The State Procurement Bureau will not proceed with any purchase requests without the required approvals. The entire list of requirements can be obtained by contacting ITSD's Policy and Planning Services Bureau at 444-5476.

REVISED SCHEDULE

More Purchasing Training Classes. Each fall and spring, the State Procurement Bureau will be offering two classes on purchasing issues through the Professional Development Center (PDC). These courses are ideal for new employees working in the area of procurement in your agency. This fall "Basic Purchasing Methods and Issues" will be taught October 23, 25, **31 and December 19**. The "Advanced Purchasing Methods and Issues" class will be taught November 8, and **December 11, 13**. These courses will be taught by Penny Moon, Contract Officer for the State Procurement Bureau. To register, contact the PDC at 444-3985. The cost of the day-long courses is \$20.00.

New Procurement Delegation Agreements in Place. Effective October 1, 2001, each agency has a new Procurement Delegation Agreement in effect. These agreements will run until September 30, 2003. If you did not receive a copy of your agency's agreement, please call us at 444-2575.

New Laws and Administrative Rules in Effect. Effective October 1, 2001, all of the changes made by SB 90 passed by the 2001 Legislature are in effect. The highlights of that bill included: elimination of the procurement preferences; expansion of the applicability of the Montana Procurement Act; providing the Department of Administration with the authority to pilot "alternative procurement methods"; and a modification of the definition of sole source. To correspond with the statutory changes, several administrative rules have been adopted or amended. In addition, a definition of "total contract value" has been added.

New "getting it purchased" Manual Complete. The 2001 update to the Montana Operations Manual, Chapter 1-0700, is now complete and has been issued under the title of the "getting it purchased" manual. This manual will be distributed to participants in the "Basic" and "Advanced" purchasing classes offered through the

Professional Development Center and is available electronically on our website. If you would like additional copies of the manual, please call us at 444-2575.

Remember – Energy Star Ratings. The State Procurement Bureau is in the process of adding "Energy Star" specifications to our bids for information technology hardware, office machines and lighting products. If, however, your agency is purchasing individual items such as fax machines, copiers, or appliances, be sure to request products that have an "Energy Star" rating. The "Energy Star" program began in 1992 with federal Environmental Protection Agency as a voluntary labeling program designed to identify and promote energy-efficient products in order to

COLOR REPRODUCTION

Print Services has seen a dramatic increase in the desire to use color on program publications. There are many ways to use color—some more expensive than others. There are some "do's and don'ts" to designing with color that will help your budgets. If you are not sure about how your project will be printed, it is important to find this out prior to starting your design layout. This will give you an idea how to design your piece using color effectively and efficiently.

Certain computer programs, such as Word, WordPerfect, Power Point and Harvard Graphics, are not meant to be used for the color printing process. Clip art cannot be color separated. Therefore, a piece designed in Word can only be color copied, which can be very expensive. Simple art that appears to be black and one other color can often be used effectively and save money as opposed to computer clip art done in full color.

If you are using a desktop publishing system for your design work, be sure that your program is compatible with Cyan, Magenta, Yellow, Black (CMYK) for the printing process and not strictly Red, Green, Blue (RGB) for laser output. With the increased use of color laser printers and color copiers, we have a growing interest in printing in full color. However, be aware that the process involved with laser printers is not compatible with the printing process.

Applying Prevailing Wages for Contracts Issued Under the Montana Procurement Act

Prepared by the Department of Labor and Industry and
the Department of Administration
July 2001

1. *What is a "contract period or term" for purposes of applying the prevailing wage requirement? Is it only the initial contract term, or does it include the possible options the State has to renew the contract for additional periods?*

ANSWER: It is the initial contract term plus any "possible" options the State has to renew the contract for additional periods. By having a contract with renewal options in it, the State is risking application of the prevailing wage requirements if the total of the sums paid under the contract exceeds \$25,000. In addition, Rule 24.16.9009 of the Administrative Rules of Montana (ARM) speaks to the requirement to pay the prevailing rate of wages on contracts or bid specifications for public works in excess of \$25,000.

2. *The State of Montana issues bids from which multiple contracts to multiple vendors may, on occasion, be awarded. If the individual contracts issued as a result of a bid do not exceed \$25,000, must the requirement for the payment of prevailing wages be included?*

ANSWER: In accordance with section 18-2-401(9)(a), MCA, and ARM 24.16.9009, the requirement to pay the prevailing wage rates on contracts exceeding \$25,000 is determined by the total value of the contract or bid specifications. It is not determined by the value of contracts subsequently issued by the State. Thus, if the State issues a bid with multiple contracts, all contracts are subject to payment of the prevailing wages if the total of the contracts bid exceeds \$25,000. In other words, an invitation for bid is considered one contract regardless whether a single vendor or multiple vendors are awarded the contract.

3. *At times, the State will issue bids for the same type of service at varying times of the year. For instance, we might issue a bid for janitorial services for half of the buildings on the capitol complex in January and another bid for the other half of the buildings in June due to varying contract cycles. Neither group would exceed \$25,000 per year. Should we require the payment of prevailing wages?*

ANSWER: The determining factors for considering whether or not the requirement for payment of prevailing wages exists is how the invitation for bid was issued (single or multiple contracts), contract period, renewal options (if any), total cost, etc.

4. *At times, a state agency may issue a bid for non-construction services for field sites around the state. Taken alone, none of the sites would exceed the \$25,000 per year mark. However, if added together in the bid, the sum of the potential contracts would exceed \$25,000 per year. Should prevailing wages be required?*

ANSWER: Again, if the State issues a bid for multiple contracts which total in excess of \$25,000, all contracts are subject to payment of the prevailing wages, as it is considered one contract regardless if the bid is for field sites around the state.

5. *A contract is issued for a three-year period. The contractor is required to pay the prevailing wage in effect at the time the contract was signed. But what rate should the contractor pay if after the initial three-year period, the contract is renewed for a new two-year period?*

ANSWER: If the initial contract provides for an extension of the contract at the same negotiated compensation rates as originally agreed upon, this constitutes a "renewal" that would utilize the same prevailing wage rates in effect at the time of the initial agreement. Should the contract, however, provide for a modified compensation rate for the vendor during the agreed extension of the contract, this would constitute a "renegotiation" and the prevailing wage rates in effect at the time of such renegotiation would apply.

QUESTION OF THE QUARTER

"How can state agencies ensure success in their IT procurements?"

Success may be hard to define, but at a minimum, success should be measured by how a finished product meets the original requirements and objectives. According to recent reports, almost three-quarters of all software development in the Internet era suffered from one or more of the following: (1) total failure; (2) cost overruns; (3) time overruns; or (4) a rollout with fewer features or functions than promised.

Unfortunately, there is not one single thing that can guarantee success when it comes to IT procurements. However, some steps that may put the odds in your favor are below:

- ✓ ***Every RFP should demand compliance with defined required practices. Specify what and how. Avoid "Best Practices" if not defined or measurable.***
- ✓ ***Agencies must incorporate verification and validation practices into the RFP and contract, then perform audits on projects to ensure compliance.***
- ✓ ***Consider the idea of hiring an independent third party to help write and evaluate the RFP, and assist in monitoring the project.***

Some of these services are available through existing contractors under the MIS Services Term Contract.

Remember that the purchase of ANY IT hardware, software or consulting services must be approved in advance by the Information Technology Services Division of the Department of Administration. Contact Mary Bryson at 444-5476 early in your planning.

PURCHASING USERS GROUP

The next meeting of the Purchasing Users Group will be Thursday, November 1, 2001, from 1 p.m. to 4 p.m. in the Scott Hart Auditorium in Helena.

PEOPLESOFT UPDATE

PeopleSoft Vendors List – New "Select" Option.

Thanks to the efforts of the Statewide Accounting, Budgeting, and Human Resource System (SABHRS) staff, a new feature has been added to the panels used to select vendors for solicitation. Vendors can now be "selected" instead of "de-selected" from the list. This will make using the PS vendors list tremendously easier. Thanks SABHRS!

Chartfield Information. Expense accounts (6xxxx) should now be used when inputting requisitions to be processed by the State Procurement Bureau. (Please do not use 1803.) This will allow agencies to use the PeopleSoft PO Voucher payment process when paying for resulting purchase orders without having to "battle" with inserting more chartfield lines and additional data entry. For more information on using expense chartfield information, contact Bonny Belling, State Procurement Bureau, 444-3322. For information on paying for purchase orders using the PO Voucher process, call the Accounts Payable Help Desk at 444-2000 (x3, x3, x1).

ON THE LEGAL FRONT

A contested case hearing testing the State's ability to reject late proposals is set for November 5-7, 2001, in Helena. This case is the result of a protest filed in May 1999 when the State Procurement Bureau rejected a RFP submission on the basis of it being late.

THINK ABOUT IT

"Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser—in fees, expenses, and waste of time."

--Abraham Lincoln, 1850

ABOUT THIS NEWSLETTER

"getting it purchased" is published quarterly by the Procurement and Printing Division of the Montana Department of Administration and is designed to fit in the "getting it purchased" desktop manual. For more information, or to get on the mailing list, contact (406) 444-2575. Our address is: P.O. Box 200135, Helena, MT 59620-0135. Fax number: (406) 444-2529. Website address:

www.discoveringmontana.com/doa/ppd.